IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Civil Writ Petition No.152 of 2001

Date of Decision: September 24, 2007

Dilbagh Singh .....Petitioner

Versus

The Haryana Vidyut Prasaran Nigam Ltd. .....Respondent

CORAM:- HON'BLE MR.JUSTICE S. D. ANAND

Present: Mr.SK Sud, Advocate for the petitioner.

Mr.BR Vohra, Advocate for the respondent.

S. D. ANAND, J.

1. An appointment notice (Annexure P5), for recruitment to various posts, was issued by the respondent – Haryana Vidyut Prasaran Nigam Limited (hereinafter referred to as "the respondent"). Out of 2000 posts of Assistant Linemen and 342 posts of Shift Attendants, 60 and 16 posts respectively were reserved for handicapped category. The petitioner applied for both the posts as he fulfilled eligibility conditions thereof. He was handicapped to the extent of 70%. However, he was not appointed against those posts inspite of the fact that some of the posts are still unfilled.

2. The pure and simple grievance of the petitioner is that there is no way the appointment to one of the posts aforementioned could be denied to him.

3. The plea of respondent is that the petitioner was ineligible for the post of Assistant Lineman because he had 70% disability in the lower

limb. Qua the other post, the averment was that only eight candidates were to be appointed and the appointments were indeed made to all the posts available.

4. The advertisement/appointment notice (Annexure P5) did not, at all, indicate the outer limit of handicap which a candidate for appointment under the handicapped category could have. The learned counsel for the respondent also could not invite the attention of this Court to any part of the relevant rules which provide that candidates having handicap only to a particular extent could be appointed or that the candidates having more than the indicated handicap would be ineligible for that appointment. The reply filed by the respondent also does not indicate the degree of handicap which the candidates appointed to the post of Lineman and Shift Assistant were suffering from. It was compulsive for the respondent to aver in the reply that candidates with lesser handicap had not been appointed to the posts aforementioned. Even the learned counsel for the respondent was not in a position to inform this Court in the context.

5. A Public Authority (which the respondent concededly is), inviting applications for appointments to any post, must categorically indicate the eligibility conditions in the appointment notice itself. It might well be that the Public Authority has to make the rule-related reservation for reserved category including handicapped or the physically challenged. If the nature of job is particularly arduous, the advertisement itself must (on the authority of the rules in the relevant behalf) indicate the maximum extent of handicap. Further, the rule of pleadings would also ordain that in order to rebut the plea on behalf of the petitioner, the respondent-Public Authority must indicate that those appointed were more eligible for the

posts, to which they were appointed, as against the petitioner who has raised the claim equal or better eligibility by filing the Civil Writ Petition.

6. In the light of foregoing discussion, the petition succeeds and shall stand allowed accordingly. The respondent is directed to appoint the petitioner to the post of either Assistant Lineman or Shift Attendant (whichever is presently available) within two months from today. If no post of those categories is presently available, it will be open to the respondent to consider the feasibility of creating a post to appoint the petitioner. The petitioner shall also be entitled to the costs of the cause quantified at Rs.5,000/-.

(S. D. ANAND)
JUDGE

September 24, 2007
SRM

Note: Whether referred to reporter or not? Yes/No